

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 08-30126-JPG
	)	
HERIBERTO TORRES-RODRIGUEZ,	)	
	)	
Defendant	)	

**MEMORANDUM AND ORDER**

THIS MATTER is before the Court on defendant Torres-Rodriguez's motions for discovery and inspection regarding confidential informants (Doc. 24), for production of interviewing protocols (Doc. 28) and for notice of "other crimes, wrongs or acts" evidence (Doc. 29).

**I. Discovery Motions**

As a preliminary matter, the Court notes that there is no general constitutional right to discovery in a criminal case. *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977); *see Gray v. Netherland*, 518 U.S. 152, 168 (1996). However, Rule 16 of the Federal Rules of Criminal Procedure and constitutional due process regarding exculpatory material allow criminal defendants limited access to information regarding the government's case.

The Court's Order for Pre-Trial Discovery and Inspection (Doc. 12) instructs the parties to attempt to resolve discovery disputes without recourse to the Court. If the parties have tried to resolve their disputes and have been unable to do so, the Court allows them to file a motion for discovery and a brief in support of the motion within 28 days of the arraignment. Any motion filed with the Court must contain a statement that a discovery conference was held and that agreement could not be reached concerning the discovery or inspection that is the subject of the motion. The

defendant has not complied with this order; he failed to include the statements required regarding attempts to resolve discovery disputes without recourse to the Court. For this reason, the Court **DENIES** the motions (Docs. 24 & 28) **without prejudice** to their refiling should extrajudicial discussions fail to resolve the discovery issues.

## **II. Notice of Government's Intent to Use Evidence of Other Crimes, Wrongs, or Acts**

The defendant seeks an order directing the government to give notice of its intention to use evidence of similar crimes, wrongs or acts pursuant to Federal Rule of Evidence 404(b). Rule 404(b) provides that the prosecution in a criminal case shall provide reasonable notice in advance of trial of the general nature of any evidence of other crimes, wrongs or acts allegedly committed by the defendant that the government intends to introduce at trial. Therefore, the Court **GRANTS** the defendant's motion (Doc. 29) and **ORDERS** the government to give the defendant notice of the intent to use such evidence, which shall include a description of the general nature of the evidence, no later than one week before trial.

**IT IS SO ORDERED.**

**Dated this 23d day of January, 2009.**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**U.S. DISTRICT JUDGE**